



Report Reference Number 2019/0458/OUTM

**To: Planning Committee**  
**Date: 8<sup>th</sup> February 2023**  
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APPLICATION NUMBER:	2019/0458/OUTM	PARISH:	Hemingbrough Parish Council
APPLICANT:	Mr B Falkingham & WA Hare & Son Ltd	VALID DATE:	3rd May 2019
		EXPIRY DATE:	10 <sup>th</sup> February 2023
PROPOSAL:	Outline application including access (all other matters reserved) for residential development for up to 40no custom built dwellings		
LOCATION:	Land Off School Road School Road Hemingbrough Selby North Yorkshire		
RECOMMENDATION:	<b>REFUSE</b>		

This application has been brought before Planning Committee at the request of Councillor Arthur. The reasons given were that the land is outside the development limits of the village, the development will increase traffic in the village, increase pressure on the sustainability of the village, its facilities and infrastructure. The development will harm residential amenity.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site comprises 1.47ha of agricultural land to the south of School Road, Hemingbrough. The site comprises the northern part of a field to the rear of dwellings on School Lane and to the comprises agricultural land and part of Chapel Balk Road to the east which accesses onto School Road. A secondary access between Plinthstone and Sweethaven is also shown. Plinthstone is shown as being within the applicant's ownership. There are detached dwellings fronting School Road to the north of the site, Hemingbrough Community Primary School and associated playing fields are located to the west, bounded by hedgerow, the land to the south is agricultural with no boundary defining it from the application site, with Chapel Balk Road running adjacent to the eastern boundary.

- 1.2 Trees within the curtilage of Hemingbrough Hall to the east of the site overhang the proposed access track. These are protected under TPO 8/1991.
- 1.3 There is a purple leafed Norway maple tree located in the front garden of Plinthstone, a provisional TPO was served on this tree in 2018, however was not confirmed.

### **The Proposal**

- 1.4 The proposal seeks outline consent for residential development of up to 40 custom built dwellings, with access only to be considered and all other matters to be reserved.

### **Relevant Planning History**

- 1.5 The following historical application is relevant to the determination of this application.

2017/0772/OUTM - Outline application including access (all other matters reserved) for residential development following demolition of existing dwelling. REFUSED 09-MAY-18. Reasons for refusal:

*1. The proposed dwellings would be located outside the defined development limits of Hemingbrough and would therefore be located within the open countryside, where in accordance with the overall Spatial Development Strategy for the District, development will be restricted to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances. The proposals to develop this land for residential purposes are therefore considered to be contrary to Policy SP2A(c) of the Core Strategy and the proposal is not acceptable in principle. Given that the Council have a 5 year housing land supply, there are no other material considerations of sufficient weight which would enable the Council to depart from the Development Plan.*

*2. The proposal would be located partially within the open countryside wherein development is limited to those types identified in criterion (c) of Policy SP2A in order to achieve sustainable patterns of growth set out within the Spatial Development Strategy. The proposal for up to 60 dwellings when added to the 31 dwellings that have been built or approved would substantially exceed the minimum growth options of between 33-54 dwellings. The proposal would therefore lead to an unacceptable level of growth which would be inappropriate to the size and role of Hemingbrough and conflicts with the Spatial Development Strategy set out in Policy SP2A of the Selby District Core Strategy Local Plan.*

*3. The proposals are considered to have a detrimental impact on the openness of the countryside and adversely affect the landscape character and setting of Hemingbrough, particularly the character of the 'gateway' approach into the village. The proposals are therefore contrary to Selby District Local Plan policy ENV1 (1) and (4) and Policy SP 18, SP19 of the Core Strategy.*

- 1.6 This had a very similar red line to the current application site, except for the dwelling known as Plinthstone was previously included within the red line.

## 2. CONSULTATION AND PUBLICITY

- 2.1 **Ouse & Derwent Internal Drainage Board** – Recommend a condition relating to restricted rate of discharge in the event of any grant of permission.
- 2.2 **Yorkshire Water** – Recommend conditions relating to foul and surface water drainage.
- 2.3 **Parish Council** – No response received within the given timescale.
- 2.4 **NYCC Highways** – No objections subject to conditions: road and footway layout and construction, access construction, visibility splays, removal of permitted development rights for garage conversions, construction traffic and routing, travel plan.
- 2.5 **SuDS Officer** – Response dated 31.5.2019 - Considered the submitted Flood Risk Assessment and Drainage Strategy (dated February 2017) and recommend that the is refused on the following grounds: The applicant has not robustly followed the discharge hierarchy for surface water as set out in Part H of the building regulations and that the applicant not demonstrated that the site will not increase flood risk elsewhere. The objection may be overturned following the submission of adequate information as detailed in their comments.

Following submission of a Drainage Strategy and Water Management Plan they LLFA were re-consulted. No response was received at that time. The LLFA have since been re-consulted. Any updated response received will be provided at Planning Committee.

- 2.6 **Environmental Health** – Recommend condition requiring a scheme to minimise the impact of noise, vibration, dust and dirt on residential property in close proximity to the site.
- 2.7 **Natural England** – No objection.
- 2.8 **North Yorkshire Bat Group** – No response received within the given timescale.
- 2.9 **Designing Out Crime Officer** – Recommend condition on any approval requiring crime prevention measures to be incorporated into development.
- 2.10 **North Yorkshire Fire & Rescue Service** – No objection/observation.
- 2.11 **Vale Of York CCG** - No response received within the given timescale.
- 2.12 **Public Rights Of Way Officer** – No response received within the given timescale.
- 2.13 **Education Directorate North Yorkshire County Council** – No contribution sought.
- 2.14 **NYCC Heritage Officer** - Archaeological trial trenching has been undertaken at the site. This has demonstrated that well preserved Roman deposits survive within the

development plot. The report suggests that the deposits are of some significance and at least of regional interest. Recommend conditions requiring a Written Scheme of Investigation for an archaeological strip, map and record excavation to be approved and carried out at the site.

2.15 **North Yorkshire County Council (CPO)** – No response received within required timescale.

2.16 **Landscape Consultant** – Object to the application as it is likely to impact on the openness of the countryside and adversely affects the character and setting of Hemingbrough village.

2.17 **Ecological Consultant** - The application is accompanied by an Ecological Appraisal (EA) and a Bat Survey. The outcome of the EA is sufficient to determine the application in relation to ecological matters. Recommend conditions relating provision of a detailed Construction Environmental Management Plan (CEMP) and an Ecological Enhancement and Management Plan.

## 2.18 **Publicity**

The application was advertised as a Departure from the Development Plan by site notice, neighbour notification letter and advertisement in the local newspaper. 28 representations have been received:

Letters of Support – 7

- Council has not permitted any self or custom build plots to meet needs of self and custom build register
- no policy for self/custom builds
- application should be supported
- use of CIL register misleading
- good location, less intrusive than others within village
- village needs to expand
- will help support school and local businesses
- should have been developed by now
- site has opportunity to deliver variety of house types

Letters of Objection – 19

- pressure on recreation facilities
- Congestion on school road/parking problems
- Loss of countryside
- Chapel Balk Road currently used by large agricultural machinery to access fields to south, concern that such use will not be compatible with residential traffic, accident potential
- smaller number of dwellings proposed compared to 2018 application, concern this number may rise
- impact on Swiss Cottage
- loss of view and house value (not planning matters)
- increased traffic on School Road from school and recreation field leads to congestion, and also to A63
- other sites can be built on first
- insufficient village infrastructure
- impact on wildlife

- site poorly drained, proposal will make it worse
- loss of light to dwellings on School Road
- loss of agricultural land
- noise and disturbance of construction to neighbouring dwellings
- no change to previously refused application
- need more affordable housing
- detrimental to village heritage and Hemingbrough Hall
- impact on preserved trees
- change village character

Letters neither support/nor object – 2

- Chapel Balk Road used by agricultural machinery to avoid going through village, access to fields needs to be maintained
- School would welcome new pupils as a result of development however concerns regarding construction and impact on school day (traffic/contractor parking/noise/disturbance)

### **3. SITE CONSTRAINTS**

- 3.1 The site is located predominantly outside the defined development limits of Hemingbrough (a Designated Service Village), to the south-east of the existing settlement boundary and therefore lies within countryside in policy terms. The secondary access to the side of the property known as Plinthstones lies within the development limit. The main site access lies without. The site lies within Flood Zone 1, which has low probability of flooding. The site is potentially contaminated due to past land uses.

### **4. POLICY CONSIDERATIONS**

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".
- 4.2 This is recognised in the National Planning Policy, at paragraph 11 of the NPPF, with paragraph 12 stating that the presumption in favour of sustainable development contained in paragraph 11 does not change the statutory status of the development plan as the starting point for decision making. It goes to state at paragraph 12 that where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations in a particular case indicate otherwise. This application has been considered against the 2021 NPPF and, in particular, the sections listed below.
- 4.3 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

*"219. ....existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."*

- 4.4 The development plan for the Selby District comprises various documents including the Selby District Core Strategy Local Plan (adopted 22nd October 2013), those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy, the Minerals and Waste Joint Plan (adopted 16 February 2022).
- 4.5 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2024. Consultation on issues and options took place early in 2020 and further consultation took place on preferred options and additional sites in 2021. The Pre-submission Publication Local Plan was subject to formal consultation that ended on 28th October 2022. The responses are currently being considered. Providing no modifications are proposed, the next stage involves the submission to the Secretary of State for Examination.
- 4.6 Paragraph 48 of the NPPF states that weight may be given to relevant policies in emerging plans according to: a) the stage of preparation; b) the extent to which there are unresolved objections to the policies; and, c) the degree of consistency of the policies to the Framework. Given the stage of the emerging Local Plan, the policies contained within it are attributed limited weight and as such are not listed in this report.

#### **Selby District Core Strategy Local Plan (2013)**

- 4.7 The relevant Core Strategy Policies are:

SP1: Presumption in favour of Sustainable Development  
SP2: Spatial Development Strategy  
SP5: The Scale and Distribution of Housing  
SP8: Housing Mix  
SP9: Affordable Housing  
SP15: Sustainable Development and Climate Change  
SP16: Improving Resource Efficiency  
SP18: Protecting and Enhancing the Environment  
SP19: Design Quality

#### **Selby District Local Plan (2005)**

- 4.8 The relevant Selby District Local Plan Policies are:

ENV1: Control of Development  
ENV2: Environmental Pollution and Contaminated Land  
T1: Development in relation to the Highway Network  
T2: Access to Roads  
RT2: Open Space Requirements for New Residential Development

#### **Supplementary Planning Documents**

- 4.9 The relevant Supplementary Planning Documents are:

Affordable Housing Supplementary Planning Document, 2014  
Hemingbrough Village Design Statement, 2009

## **Minerals and Waste Joint Plan (February 2022)**

4.10 The relevant Minerals and Waste Joint Plan Policies are:

- S01 - Safeguarding mineral resources
- S02 - Developments proposed within Minerals Safeguarding Areas
- S07 – Consideration of applications in Consultation Areas
- D13 – High risk development areas

## **National Planning Policy Framework (NPPF)**

4.11 The relevant sections of the NPPF are:

- 2 – Achieving sustainable development
- 4 – Decision-making
- 5 – Delivering a sufficient supply of homes
- 9 – Promoting sustainable transport
- 12 – Achieving well-designed places
- 14 – Meeting the challenge of climate change, flooding and coastal change
- 15 – Conserving and enhancing the natural environment

## **5. APPRAISAL**

5.1 The main issues to be considered when assessing this application are:

- Principle of Development
- Design and Impact on the Character of the Area
- Impact on Residential Amenity
- Highways Impact
- Ecology and Trees
- Affordable Housing
- Flood Risk and Drainage
- Land Contamination
- Recreational open space
- Education, Healthcare, Waste and recycling
- Archaeology
- Minerals and Waste

### **Principle of Development**

5.2 Core Strategy (CS) Policy SP1 of the Selby District Core Strategy Local Plan (2013) (CS) outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.

5.3 Policies SP2 and SP4 are the Spatial Development Strategy Policies that directs new development to the Market Towns and Designated Service Villages (DSVs), restricting development in the open countryside. Policy SP2A(c) states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for

employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.

- 5.4 Hemingbrough is defined in the Core Strategy as a Designated Service Village with a defined Development Limit, which has some scope for additional residential and small-scale employment to support rural sustainability.
- 5.5 This outline application for 40 dwellings on land that is adjacent to, but outside of, the defined Development Limits of Hemingbrough, as defined in the adopted development plan. The proposal is therefore contrary to Policy SP2A(c) of the Core Strategy and represents inappropriate development in the countryside. The wider edge of settlement relationship is assessed below:

#### Sustainability of the Development

- 5.6 In terms of sustainability, the site lies outside the Development Limits of Hemingbrough which is a Designated Service Village as identified in the Core Strategy, where there is some scope for additional residential and small scale employment to support rural sustainability. The village has numerous facilities including a doctors surgery and primary school. In addition there is a bus service between Goole and Selby, which provides onward links to cities including York and Leeds. It is therefore considered that the settlement is relatively well served by local services.
- 5.7 As Hemingbrough has been identified as a Designated Service Village, both within the Selby District Local Plan and the Core Strategy, the Council considers the village a sustainable location in a rural context. The village is considered “more sustainable” in Core Strategy Background Paper 5 Sustainability Assessment of Rural Settlements (updated February 2010). The type and range of facilities, public transport accessibility and access to employment opportunities identified in Hemingbrough was broadly similar in the PLAN Selby Site Allocations, Designated Service Villages, Growth Options Report, Draft for Stakeholder Engagement, June 2015 (recognising that there are some differences with the studies). Furthermore, the situation in respect of the sustainability of Hemingbrough has remained broadly similar since June 2015 to date. Having taken these points into account, even though the site is located outside the defined Development Limits of Hemingbrough, it would be served by the facilities within this sustainable settlement and as such would perform highly with respect to its sustainability credentials in these respects, however this needs to be considered alongside the levels of growth of the settlement.

#### Previous Levels of Growth and the Scale of the Proposal

- 5.8 CS Policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability. This policy sets a minimum target of 2000 for DSVs as whole, which, the most recent monitoring indicates has been exceeded by completions and permissions in these settlements as a whole. However, the CS does not set a minimum dwelling target for individual DSVs, so it is not possible at this point to ascertain exactly whether Hemingbrough has exceeded its dwelling target.



- 5.9 The Growth Options report indicates minimum growth options of between 39-54 dwellings for Hemingbrough. To date, Hemingbrough has seen 27 (gross) dwellings built in the settlement since the start of the Plan Period (25 net) in April 2011 and has extant gross approvals for 11 dwellings (9 net), giving a gross total of 38 dwellings (34 net).
- 5.10 Considering the range of growth options identified for this settlement the scale of this individual proposal, at 40 dwellings, would be appropriate to the size and role of a settlement designated as a Designated Service Village, when considered in isolation. However, the individual scale of the proposal must also be considered in terms of the cumulative impact it would have with the previous levels of growth in this settlement that have occurred since the start of the plan period.

#### Self & Custom Build Need

- 5.11 Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those people wishing to commission or build their own homes). Footnote 28 to paragraph 62 advises that under Section 1 of the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and custom-build properties could provide market or affordable housing.
- 5.12 The Council's current development plan is made up of documents that were adopted before the introduction of the self-build act in 2015 and so there is no current plan led mechanism for providing self-build homes. The emerging policy approach is set out by Policy HG10 of the emerging Local Plan, which states that larger sites (those providing 50 or more dwellings) will be required to supply up to 3% of the total plots to self-builders or custom house builders, subject to appropriate demand being demonstrated through the Council's self-build and custom-build register. Support for self-build and custom-build housing proposals will also be given through policy HG2 (windfall development), however limited weight can be applied to the emerging Plan at this stage.
- 5.13 As of January 2023, there are 33 names on the Council's self-build and custom-build register, and there is nobody on the list that has specifically stated that they are looking for a plot in Hemingbrough. However, three have stated that they would consider "any location", two have stated that they would "consider most villages", one has stated a "rural location" and a further person has said they are looking for a plot "within 20 miles of Sherburn in Elmet". This provides a total of 7 households whose locational needs could potentially be met by this site in Hemingbrough. This compares to the 40 self-build plots proposed by this application.
- 5.14 No indication is given of how the site will be delivered for custom-build housing. Given that the location of the dwellings proposed does not generally match the locational needs of those expressed on the self-build register, it is not considered that the provision of self-build plots is likely to weigh in favour of the proposal so as to override the fact that the proposal represents a departure from the Development Plan.

#### Emerging Local Plan

- 5.15 The Council are currently preparing a new Local Plan for the District which will cover the period to 2040. Consultation on the Publication Draft was undertaken between August and October 2022. The application site forms part of a wider emerging residential allocation (ref. HEMB-G) which has been identified as suitable for up to 120 dwellings. As part of this proposed allocation, the Council would seek to ensure that site HEMB-G is delivered comprehensively, rather than in a piecemeal manner. Given the Council has recently undertaken Regulation 19 consultation on the Plan and is still analysing the representations received, Officers consider that limited weight can be applied to the emerging approach at this stage.

## **Design and Impact on the Character of the Area**

### Design

- 5.16 The application is for outline planning permission for up to 40 custom-build dwellings, with access only for consideration and all other matters reserved. The Planning Statement refers to an Illustrative Site Layout Plan being prepared, however this has not been received during the course of the application. On-site open space will be required under Saved Policy RT2, the provision of which will impact on the number of dwellings that can be provided and their siting. These are details that would be addressed under reserved matters. The site area is 1.47 hectares and up to 40 units would equate to 27 dwellings per hectare which is medium to low in terms of density. On site open space at 60 sqm per dwelling would equate to 2400 sqm or 0.24 of a hectare, meaning the developable area would be 1.23 hectares i.e 32 dwellings per hectare.
- 5.17 The appearance of the dwellings is a reserved matter. As the application is for custom build dwellings a Development Design Code would be required which would set out the guiding principles for the design of the proposed dwellings - these would include maximum height, scale, building materials, plot coverage and parking and access to each unit. Dwellings would then be built in accordance with the agreed parameters. In order to ensure that the development was built out as custom-build this would need to be secured via condition requiring the Design Code to be submitted prior to any reserved matters application. However subject to an appropriate Design Code there is nothing to indicate that a development of appropriate scale and appearance cannot be achieved.

### Landscape Character

- 5.18 Landscaping is a reserved matter, however needs to be considered as part of the outline application given the sites location on the village edge outside of the Development Limit. The application site comprises the northern part of a larger field area with open boundaries to the south and east onto Chapel Balk Road. There are managed boundary hedgerows to the west and residential gardens to the north side. To the eastern boundary of Chapel Balk Road there is a defined hedgerow and mature trees on the boundary with Hemingbrough Hall - these are protected under TPO 8/1991. A temporary TPO 1/2018 was also served on a Purple Leafed Norway Maple sited in the front garden of Plinthstones, however this was never confirmed.
- 5.19 The Council's Landscape Architect has assessed the site, given its location outside of the Development Limit. The conclusion was that the proposed development is likely to impact on the openness of the countryside and adversely affect the

landscape character and setting of Hemingbrough village, particularly the character of the gateway into the village from the east, the approach into the village from the west and views from along Chapel Balk Road. It is therefore concluded that the development could not be supported in landscape and visual terms and is contrary to Policy ENV1 (1) and (4) of the Local Plan and Policy SP19 of the Core Strategy.

- 5.20 The site forms the northern section of emerging allocation HEMB-G. Whilst the emerging plan currently has no weight it is noted that the site requirements for HEMB-G require the provision of landscape screening to the southern boundary. The landscaping of the site can best be achieved as part of a comprehensive development of the entire HEMB-G site, rather than part.
- 5.21 Having had regard to the above, it is considered that although an appropriate design of individual properties could be achieved at reserved matters stage the proposals are contrary to Policy ENV1 (1) and (4) of the Local Plan and Policy SP19 of the Core Strategy with respect to their landscape impacts and the impact on the character and setting of the village.

### **Impact on Residential Amenity**

- 5.22 Objections have been raised by neighbouring residents to the proposal and its impact on their residential amenity. The detailed design of the dwellings including their orientation and window placement would be considered at reserved matters. It is considered that the site is of sufficient size to allow for dwellings to be sited without issues of overlooking and loss of privacy to neighbouring dwellings.
- 5.23 The Environmental Health officer has recommended a condition requiring a scheme to minimise the impact of noise, vibration, dust and dirt on residential properties be submitted prior to site preparation and construction work commencing given the size of the development and its close proximity to existing residential properties. This proposed condition is considered reasonable and proportionate.
- 5.24 It is considered that sufficient residential amenity can be achieved for existing and future residents in accordance with policy ENV1(1) of the Local Plan and the NPPF.

### **Highways Impact**

- 5.25 A Transport Statement been submitted to support the application along with plans showing improvements to the access. The main access to the site is via Chapel Balk Road with a pedestrian access taken to the side of Plinthstones onto School Road. The access has adequate visibility. The proposed access will need improving to increase the carriageway width, add a footway and service margin and bring Chapel Balk Road up to NYCC's A1 specification. This is all shown on drawing 16-462-TR-009. The new access will have the traditional 5.5 metre carriageway and 2 no. 2 metre footways as shown on drawing BGH7.
- 5.26 The Transport Statement and access plans has been considered by the Local Highway Authority who have not raised any objection subject to conditions. The conditions cover the need for detailed plans of the road and footpaths, the requirement for these roads to be completed prior to any dwelling being occupied, surface water drainage details, verge crossing details and visibility splays. Other conditions included the need for access parking and turning details to be submitted, construction traffic details, highways condition surveys and the need for travel plans.

- 5.27 Representations have been received raising concern over traffic impacts on School Lane, in particular at the start and end of the school day and when sporting events take place, causing congestion and parking issues, these have been taken into account.
- 5.28 In terms of the impact on the highway network the proposals are in accordance with Policies T1 and T2 of the Selby District Local Plan. Full details of the layout would be included in any reserved matters and the remaining details are all capable of being controlled by planning conditions.

### **Ecology and Trees**

- 5.29 Saved Policy ENV1(5), Core Strategy Policy SP15B(d) and SP18 (1) and (3) and paragraphs 174(d) and 180 of the NPPF seek to protect and enhance biodiversity within the District. Saved Policy ENV1(4), Core Strategy SP18(1) and paragraph 131 of the NPPF are relevant with regards to trees.

#### Ecology

- 5.30 An Ecological Survey and Bat Survey were submitted in support of the proposal. The bat survey concentrated on the proposed demolition of the dwelling known as Plinthstones however this is no longer being demolished. The Ecological Appraisal identified the site as being arable in nature and actively farmed. The habitats were assessed as being of low ecological value. There are no ponds within the development site; however there are ponds within the surrounding area and records of great crested newt exist. The reports were considered by the Council's Ecological consultant, who is satisfied that the ecological survey is sufficient to determine the application.
- 5.31 Conditions are recommended requiring submission of a detailed Construction Environmental Management Plan (CEMP) and an Ecological Enhancement and Management Plan, along with an informative regarding disturbing nests. The proposal would accord with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy subject to conditions.

#### Trees

- 5.32 Trees on the eastern side of Chapel Balk Road are protected under TPO 8/1991. These lie within the grounds of Hemingbrough Hall, however they overhang Chapel Balk Road. Chapel Balk Road is to be widened and a footway provided along a distance of 55m from the junction with School Road. The plans show that this will be achieved by removing the existing grassed verge and hedge alongside Hemingbrough Hall, which will bring the road under the canopies and across existing roots. Notwithstanding that the trees are covered by a TPO, no tree survey or arboricultural impact assessment has been submitted to assess the impact that the road widening will have on the trees from widening the road.
- 5.33 The Council's Arboricultural Consultant has been consulted and advises that insufficient detail has been provided to assess the impact of the development on the trees. The trees have not been surveyed and plotted and the proposed access layout plan is short on detail. As the application is for outline planning permission with access considered a tree survey and arboricultural impact assessment should have been submitted for consideration.

- 5.34 A provisional TPO (1/2018) was made on a Purple Leafed Norway Maple to the front of Plinthstones following submission of application 2017/0772/OUTM. The TPO was never confirmed and so has lapsed.
- 5.35 It is considered that insufficient information has been submitted to demonstrate that the proposed access to the site will not have a detrimental impact on the protected trees alongside Chapel Balk Road, contrary to Policy ENV1 of the Local Plan, Policy SP18 of the Core Strategy, and advice in the NPPF.

### **Affordable Housing**

- 5.36 Notwithstanding that the proposal is for custom-build dwellings, these can still deliver affordable homes and 40% affordable units would be required for the site under Policy SP9.
- 5.37 The applicant indicated in 2017/0772/OUTM that they would be prepared to provide affordable units on site subject to viability, however there is no indication within application 2019/0458/OUTM that they would be prepared to offer the same for this development.
- 5.38 In the absence of any commitment to affordable housing delivery the application is contrary to Policy SP9 of the Core Strategy.

### **Housing Mix**

- 5.39 It is considered that the proposal could achieve an appropriate housing mix at reserved matters stage as identified in the SHMA, in accordance with Policy SP8 and the NPPF.

### **Flood Risk and Drainage**

- 5.40 The application site is located within Flood Zone 1 (Low Risk) and the proposal is supported by a Flood Risk Assessment.
- 5.41 It is stated that surface water is to be disposed of via a combination of sustainable drainage systems, discharge to existing watercourse and main sewer with foul sewerage discharged to the main sewer. The Ouse and Derwent Internal Drainage Board and Yorkshire Water raise no objection and recommend conditions relating to a restricted rate of discharge and foul and surface water drainage.
- 5.42 The Lead Local Flood Authority was also consulted and based on the submitted information objected to the proposal as insufficient information had been provided relating to surface water disposal nor that the site will not increase flood risk elsewhere. A Drainage Strategy & Water Management Plan was submitted in September 2019 and the LLFA reconsulted but did not provide any amended/updated response at that time. The LLFA have since been re-consulted. Any response will be reported to Planning Committee.
- 5.43 In the absence of an up-to-date response from the LLFA the proposal is currently unacceptable in terms of drainage, and flood risk and contrary to Policies SP15, SP16, SP19 of the Core Strategy, and the NPPF.

### **Land Contamination**

- 5.44 The application is supported by a Phase 1 contaminated land assessment and is the same as that submitted for the previous planning application 2017/0772/OUTM, on which the Contaminated Land Consultant was consulted and raised no objections subject to standard conditions relating to submission of a remediation scheme, verification, and reporting of unexpected contamination.
- 5.45 No consultation response has been received from the Contaminated Land Officer for this application, however it is considered highly unlikely that the ground conditions for the site will have changed in the intervening period and it is therefore considered that the response provided in respect to 2017/0772/OUTM is still valid for application 2019/0458/OUTM.
- 5.46 The proposal would be acceptable in respect of land contamination and is, therefore, in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy.

### **Recreational open space**

- 5.47 On-site open space is required under Policies RT2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF. Policy RT2 states schemes of 5 or more dwellings will be required to provide recreation space at the rate of 60 sqm per dwelling. For scheme of more than 10 dwellings but less than 50, open space can be provided either on site or within the locality. Up to 40 dwellings would need 24,00 sq or 0.24 hectares.
- 5.48 The site requirements for the emerging allocation HEMB-G states that the development needs to “*Provide on-site recreational open space within the centre of the site, which is overlooked by dwellings, to create a green focal heart to the development.*” The centre of HEMB-G lies to the south of the application site. Provision of open-space within the application site, as required under Policy RT2, would be sited too far north, away from the main body of the wider emerging allocation and will not achieve the development requirements for HEMB-G.

### **Archaeology**

- 5.49 An Archaeological Evaluation which includes the outcomes of trial trenching at the site has been submitted with the application. The Principal Archaeologist has been consulted and has advised that Roman deposits survive within the site which are of significance as they appear to have a military connection and can advance understanding of the Roman occupation of the area. The report suggests that the deposits are of some significance at least of regional interest. Although the archaeology is complex the report has not indicated that there are any extremely significant deposits such as a villa that would warrant preservation in situ and as such the Principal Archaeologist agrees that there is at least regional interest with some potential to be of national interest. An archaeological recording condition is therefore recommended.
- 5.50 The proposals are therefore considered acceptable with respect to the impact on designated and non-designated heritage assets in accordance with Policies ENV1 and ENV28, of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

### **Minerals and Waste**

- 5.51 Since the application was submitted the NYCC Minerals and Waste Plan 2022 has been adopted and now forms part of the Development Plan. The application site is located within an area identified for the safeguarding of mineral resources. Relevant policies in relation the NYCC Minerals and Waste Plan 2022 are S01, S02 and S07, which reflect advice in Chapter 17 of the NPPF, and seek to protect future mineral resource extraction by safeguarding land where the resource is found and avoiding such land being sterilised by other development. The proposal is not an exempt development and would result in sterilisation of the ground.
- 5.52 The site is identified on the Coal Authority interactive map as lying within a low risk area for which the standing advice is to impose an informative to draw this risk to the developers attention.
- 5.53 NYCC Minerals and Waste have been consulted on the proposal. Their response is awaited and will be reported to Planning Committee on receipt.

### **Developer Contributions - Education, Healthcare, Waste and Recycling**

- 5.54 Representations have been received from residents expressing concern about the impact of the proposal on existing village services. The Healthcare Service were consulted but no response has been received. The NYCC Education Directorate has stated that a contribution would not be sought, however this would be covered by CIL in any instance. A representation received from the primary school states that the school has capacity and would welcome more families moving to the village. The developer will be required to pay a contribution to Waste and Recycling, which can be secured as part of a Section 106 Agreement.
- 5.55 The proposal complies with policies ENV1 and CS6 of the Local Plan, Policy SP19 of the Core Strategy, the Developer Contributions SPD and CIL with respect to developer contributions.

## **6. CONCLUSION AND PLANNING BALANCE**

- 6.1 The application site is located outside the defined development limits of Hemingbrough and therefore lies within open countryside, where in accordance with the overall Spatial Development Strategy for the District, development will be restricted to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.
- 6.2 The proposal for up to 40 custom-build dwellings would exceed the current demand for self-build and custom-build within the District and is unlikely to meet the locational needs of those registered on the Self-build and Custom-build register as none have specifically specified Hemingbrough as a location. No details have been provided on the delivery of the site. Some weight can be given to the provision of custom-build homes and the economic benefits to the local economy resulting from their construction, however this is not sufficient to override the fact that the proposal is a departure from the Development Plan. The proposal is therefore considered to

be contrary to Policy SP2A(c) of the Core Strategy and the proposal is not acceptable in principle.

- 6.3 Custom-build housing can deliver affordable housing however there is no commitment to affordable housing delivery in the application and is contrary to Policy SP9 of the Core Strategy. This weighs against the proposal.
- 6.4 The site forms part of the wider emerging allocation HEMB-G, however the emerging local plan is currently at Regulation 19 stage and has no weight and does not weigh in favour of the proposal. The Council is also of the view that emerging allocation HEMB-G should be developed as one entire site in order to achieve a comprehensive and cohesive residential scheme (meeting the proposed site requirements including open space provision) given the sites location on the village edge.
- 6.5 The proposals are considered to have a detrimental impact on the openness of the countryside and adversely affect the landscape character and setting of Hemingbrough. Landscaping is a reserved matter, however there is no indication that sufficient landscaping to the southern boundary can be achieved to reduce visual impact. The proposals are therefore contrary to Selby District Local Plan policy ENV1 (1) and (4) and Policy SP 18, SP19 of the Core Strategy.
- 6.6 There is consultee objection to the proposed drainage from the LLFA. In the absence of any further consultation update it is considered that the proposed drainage of the site is inadequate and contrary to Policies SP15, SP16, SP19 of the Core Strategy, and the NPPF.
- 6.7 It is considered that insufficient information has been submitted to demonstrate that the proposed access to the site will not have a detrimental impact on the protected trees alongside Chapel Balk Road, contrary to Policy ENV1 of the Local Plan, Policy SP18 of the Core Strategy, and NPPF.
- 6.8 The application cannot be supported for the reasons set out above.

## 7. RECOMMENDATION

This application is recommended to be **REFUSED** for the following reasons:

- 01 The application site lies outside the defined development limits of Hemingbrough and is therefore located within the open countryside, where in accordance with the overall Spatial Development Strategy for the District, development will be restricted to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances. The proposals to develop this land for residential purposes are therefore considered to be contrary to Policy SP2A(c) of the Core Strategy and the proposal is not acceptable in principle. Given that the Council have a 5 year housing land supply, there are no other material considerations of sufficient weight which would enable the Council to depart from the Development Plan.



- 02 The proposed development would result in harm to the openness of the countryside and adversely affect the landscape character and Barmby Ferry Road and views from along Chapel Balk Road and cannot be supported in landscape and visual terms and is contrary to Policy ENV1 (1) and (4) of the Local Plan and Policy SP19 of the Core Strategy.
- 03 In the absence of any commitment to affordable housing delivery the application is contrary to Policy SP9 of the Core Strategy.
- 04 Insufficient information has been submitted to demonstrate that widening of the proposed access to the site will not have a detrimental impact on the trees protected under TPO 8/1991 which are alongside Chapel Balk Road. The application is therefore contrary to Policy ENV1 of the Local Plan, Policy SP18 of the Core Strategy, and NPPF.
- 05 The piecemeal development of the wider site which forms the emerging allocation HEMB-G will result in open space being provided in a location that does not meet the site requirements for HEMB-G.
- 06 The proposed drainage of the site is inadequate and contrary to Policies SP15, SP16, SP19 of the Core Strategy, and the NPPF.

## **8. Legal Issues**

### **8.1 Planning Acts**

**This application has been determined in accordance with the relevant planning acts.**

### **8.2 Human Rights Act 1998**

**It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.**

### **8.3 Equality Act 2010**

**This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.**

## **9. Financial Issues**

**Financial issues are not material to the determination of this application.**

## **10. Background Documents**

**Planning Application file reference 2019/0458/OUTM and associated documents.**

**Contact Officer:** Linda Drake (Planning Project Officer)

**Appendices:** None